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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA,)
)
PLAINTIFF,)
)
vs.) No. CR 15-00595-RGK
)
ANGELO HARPER, JR.,)
)
DEFENDANT.)

REPORTER'S TRANSCRIPT OF COURT TRIAL
DAY 1, PAGES 1 TO 94
TUESDAY, JULY 19, 2016
LOS ANGELES, CALIFORNIA
9:04 A.M.

APPEARANCES:

FOR PLAINTIFF: OFFICE OF THE UNITED STATES ATTORNEY
BY: ANNE CARLEY PALMER
GEORGE E. PENCE, IV
THOMAS STOUT
ASSISTANT UNITED STATES ATTORNEYS
312 NO. SPRING STREET
LOS ANGELES, CALIFORNIA 90012
213.894.0282

FOR DEFENDANT: FEDERAL PUBLIC DEFENDER'S OFFICE
BY: RACHEL A. ROSSI and JENNIFER UYEDA
DEPUTY FEDERAL PUBLIC DEFENDERS
321 EAST 2ND STREET
LOS ANGELES, CALIFORNIA 90012
213.894.4406

ALSO PRESENT: JONATHAN RUIZ, SPECIAL AGENT, DHS

SANDRA MacNEIL, CSR 9013, RPR, CRR, RMR
Official Court Reporter, U.S. District Court
255 East Temple Street, Room 181-F
Los Angeles, CA 90012; 213.894.5949

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1 LOS ANGELES, CALIFORNIA; TUESDAY, JULY 19, 2016

2 9:04 A.M.

3 - - - -

4
5 THE CLERK: Calling calendar item No. 1, case
6 No. Criminal 15-595-RGK, United States of America versus
7 Angelo Harper, Jr.

8 Counsel, please state your appearances.

9 MS. PALMER: Good morning, Your Honor. Carley Palmer
10 and George Pence for the United States, and with us at
11 counsel's table is AUSA Tom Stout and Special Agent Jonathan
12 Ruiz.

13 THE COURT: Okay. Thank you, Counsel.

14 MS. ROSSI: Good morning, Your Honor. Rachel Rossi
15 and Jennifer Uyeda on behalf of Mr. Angelo Harper, Jr., who is
16 present in custody.

17 THE COURT: Thank you, Counsel.

18 In this matter there were three counts originally. The
19 defendant has already pled guilty to two. Today is the day set
20 for trial for Count 1, which is the advertising count.

21 Are both sides ready to proceed?

22 MS. ROSSI: Yes, Your Honor.

23 MR. PENCE: Yes, Your Honor.

24 MS. PALMER: Yes, Your Honor. There are a couple
25 housekeeping matters we'd like to take care of before we go

1 forward.

2 THE COURT: Okay.

3 MS. PALMER: Since this is a bench trial, we would
4 like to request -- we would like to clarify that we don't need
5 to ask to publish once something has been admitted into
6 evidence.

7 THE COURT: Once it's been admitted into evidence, you
8 won't have to publish. Or, excuse me, you won't have to ask to
9 publish.

10 MS. PALMER: And the government would like to move in
11 Exhibits 1, 3, 5 and 7, based on our business records notice
12 that we filed earlier with the Court, as well as Exhibit 31.

13 THE COURT: Okay. Any objection?

14 MS. ROSSI: No, Your Honor.

15 THE COURT: Okay? Okay.

16 (Received in evidence, Government's Exhibits 1,
17 3, 5, 7 and 31.)

18 THE COURT: Counsel, wish to proceed?

19 MS. ROSSI: Your Honor, we do have motions in limine
20 pending.

21 THE COURT: Yeah, Counsel, I know you do. You have
22 motions in limine that were filed when this was still a jury
23 trial. They are evidentiary issues. I can handle them as they
24 come up. I don't see what the problem is with a court trial.
25 If there's anything you think you need for a court trial,

1 that's fine, let me know; I'll be happy to resolve those right
2 now.

3 MS. ROSSI: Well, Your Honor, we do have a motion
4 pending to exclude one of the government's witnesses. If the
5 Court would prefer to wait until that witness testifies or now.

6 THE COURT: Yeah, when the witness testifies. I mean,
7 if you want it earlier, that's fine. I can do it now if you
8 want, if you want to argue it now, but I can also do it at the
9 time they call that witness.

10 MS. ROSSI: We would prefer to do it now, if the
11 Court --

12 THE COURT: Okay. There is a -- I believe it was on
13 the expert witness.

14 MS. ROSSI: Yes, Your Honor.

15 THE COURT: Okay. Counsel want to be heard?

16 MR. PENCE: Yes, Your Honor.

17 The defense argues that the government provided improper
18 notice of the expert witness, and that is simply not the case.
19 On June 29th, the government provided a detailed notice that
20 described exactly who the witness was, what his opinion would
21 be, his qualifications to provide that opinion, and how he
22 would arrive at that opinion.

23 THE COURT: Counsel, let me ask before we even get
24 started, the testimony of the witness in the motion in limine
25 indicated he's going to be testifying to whether or not these

1 were Photoshopped or whether or not they are accurate images.

2 MR. PENCE: That's correct, Your Honor.

3 THE COURT: Is it an issue? Has anybody questioned
4 it? Has anybody indicated that they're going to argue that
5 it's not? Has anybody indicated that they are Photoshopped?
6 If it's not an issue, it's not an issue, and so I don't know
7 why you would be calling the witness. Now, I don't know if the
8 defense is going to put it into issue or not. If they are,
9 then I'll be happy to address it. That's one of the reasons I
10 wanted to wait till the end. If they don't put it into issue,
11 then their argument would be irrelevant, what he has to
12 testify. If they do put it into issue, then I'll have to
13 determine that.

14 MR. PENCE: Your Honor, I agree with your preferred
15 approach, would be to save argument until the witness has
16 actually testified.

17 THE COURT: You have an indication, or if counsel
18 wants to represent at this time they are putting that into
19 issue, I'll decide it now. Or we can wait.

20 *(Counsel confer privately.)*

21 MR. PENCE: Your Honor, there is no stipulation on the
22 table concerning the nature of the images that are -- that the
23 government plans to show.

24 THE COURT: I just don't know where you're going on
25 it. The reason I say that, Counsel, is -- well, let me give

1 you an analogy. You can have an eyewitness identification, and
2 as the government, you don't have to go into proof that there's
3 no twin out there unless they put it into issue. If there's no
4 evidence there's a twin, then it's not even an issue. I don't
5 know if that's a good analogy or not. In this case, if you
6 introduce a photograph, it's presumed to be accurate. If they
7 attack it, if there's any evidence, then you're going to have
8 to bring in your witness.

9 MR. PENCE: Your Honor, I believe --

10 MR. STOUT: Could we have a moment?

11 THE COURT: Sure.

12 Now, counsel, if either one of you have law saying that
13 that's not true, let me know, but that's my understanding of
14 the law.

15 MR. PENCE: Your Honor, we do have the burden in this
16 case --

17 THE COURT: Yeah.

18 MR. PENCE: -- of establishing that the defendant
19 intended to post -- the advertisement that the defendant posted
20 was for pictures of actual children, real children.

21 THE COURT: And you'd have the obligation to show that
22 this was the person that was identified, not a twin, also. I
23 mean, I just don't understand why it's going on. But I'm going
24 to back off. You can argue it. You can argue it. But it just
25 doesn't seem -- until there's some evidence that this was

1 Photoshopped or puts it into issue, I just don't see it being
2 relevant. Assuming that it is put in issue, go ahead and make
3 your argument.

4 MR. PENCE: Your Honor, David Jones will provide
5 testimony that the images that he's viewed and which the
6 government intends to offer the Court today do depict what they
7 appear to depict.

8 THE COURT: I'm assuming he's going to testify to
9 that. That's what you said in your moving papers.

10 MR. PENCE: Yes. And the notice we provided to the
11 defense counsel, which is the basis of their objection to his
12 testimony today, was more than adequate under 16(a)(1)(G).
13 16(a)(1)(G) provides that the government must provide --
14 identify the witness, basis and reasons for the witness and the
15 qualifications to provide that. Our June 29th notice provided
16 all of that information.

17 What the defense seems to want is a detailed report from
18 our witness that explains all of the factors that went into his
19 determination. 16(a)(1)(G) simply does not require such a
20 report. At this point, the defense knows exactly the images
21 that are at issue and knows precisely what the defense --
22 Mr. Jones is going to testify about. Given that that's the
23 case, there's no grounds for excluding his testimony based on
24 deficient notice under 16(a)(1)(G).

25 THE COURT: Okay.

1 Counsel.

2 MS. ROSSI: Yes, Your Honor.

3 The point of the notice requirements in Rule 16 are to
4 give the defense adequate time to prepare cross-examination, to
5 obtain its own expert, and to adequately defend against that
6 expert that the government presents. And here, yesterday at
7 around noon, the government finally presented some of the basis
8 of the opinions of that expert. The government previously only
9 provided to defense the conclusions of the expert in a very
10 summary form in a paragraph stating that he would testify that
11 the images are not morphed, composited or digitally altered.

12 The requirements under Rule 16 are for the government to
13 present evidence or to present the summary of why the expert
14 came to that conclusion, and that reason being so that the
15 defense can determine whether it needs to hire its own expert,
16 whether it needs to prepare cross-examination in specific ways.

17 In addition, the Court needs to make a finding as to
18 whether it's proper expert testimony, and the Court cannot do
19 so here. In --

20 THE COURT: Counsel, let me just back off. I don't
21 know why this case is being handled the way it's -- I know you
22 had an objection to it, you'd like to have seen it handled
23 differently. The Court has an objection to it insofar as it
24 would like it handled differently, but I'm not going to allow
25 this to be turned -- you know, make a mountain out of a

1 molehill on this.

2 Let me just ask a couple of questions. When did you
3 inform him that that was going to be an issue as to whether or
4 not they were real or not? Did you inform him? Because if you
5 didn't, he doesn't have any obligation. He could come up at
6 the last minute, if you put something in issue, and say, "Okay,
7 I need an expert to refute this." Was there any indication to
8 the government prior to this trial that that was going to be an
9 issue as far as the defense was concerned?

10 MS. ROSSI: Yes, Your Honor.

11 THE COURT: When did you give him that information?

12 MS. ROSSI: Your Honor --

13 THE COURT: When did he know or should have known that
14 that was going to be an issue?

15 MS. ROSSI: Well, Your Honor, in about November of
16 last year, the government presented to defense NCMEC reports,
17 which are reports from the National Center for Exploited or
18 Missing Children, which would show whether images contained in
19 the discovery -- in the evidence that the government has
20 retrieved in this case depict actual children, and at that time
21 the government should have known by its own evidence that the
22 images posted in the chat room that are relevant to Counts 1
23 and 2 in this case were not depicting actual children.

24 THE COURT: Okay. So one of your objections is that
25 he did not file, or did not serve you in a timely manner with

1 his expert and what the expert was going to be testifying to?

2 MS. ROSSI: Yes, Your Honor. And when we did get
3 expert notice, we do have a forensic expert who just analyzes
4 the devices and what's contained on them, and we asked our
5 forensic expert what these conclusions mean, and he wasn't able
6 to give us that answer, so we weren't able to get our own
7 expert to prepare adequate cross-examination.

8 THE COURT: Okay.

9 Counsel, if you knew in November, why did we wait till
10 right before trial to provide that?

11 MR. PENCE: Your Honor, the chronology has been
12 oversimplified by defense counsel. The charges against
13 defendant include advertising, possession and distribution.
14 That's what they were as of a week ago. In June, before
15 defendant pleaded, the government had been informed by defense
16 counsel of the likelihood of the probability that the defendant
17 would plead. That would greatly shrink the nature of the case
18 and the number of images that would be shown to the Court in
19 order to prove up the government's case.

20 At the time, the government, out of an abundance of
21 caution, let defense counsel know the identity of the expert
22 that it expected to testify in the event that the substance of
23 these videos and photos, i.e., whether they depicted actual
24 children, would be at issue. That representation was made --
25 that notice was provided to defense counsel in June. The plea

1 occurred on July 12, and it was only after the plea occurred
2 that the defense for the first time raised any concern with the
3 notification that the government had provided to the defense in
4 June.

5 The government, as soon as that plea occurred, promptly,
6 promptly had its expert review the images that would be
7 necessary to show at trial, disclosed those images to defense
8 counsel and provided the necessary disclosures that allowed
9 defendant to prepare its case.

10 The November conversation that defense counsel is
11 describing, there's no evidence that I know of of any
12 conversation between defense counsel and the government at that
13 point in time, but even assuming that there was, the mere fact
14 that the government may or may not have known in November that
15 there were real images of children did not require the
16 government to provide notice in November of the actual expert
17 that it would use to --

18 THE COURT: When would timely notice have been?

19 MR. PENCE: We provided timely notice. All that is
20 required is that the defendant have a reasonable -- a
21 reasonable notice and a summary of the expected testimony. We
22 provided notice almost three weeks before trial of the identity
23 of the expert.

24 THE COURT: Okay. Anything else from either side?

25 MR. PENCE: No, Your Honor. Thank you.

1 MS. ROSSI: Just to clarify, Your Honor, the identity
2 of the expert was provided on June 29th. The images that the
3 expert actually was opining on, that information was provided
4 July 14th. And the analysis or how the expert came to its
5 conclusions was provided yesterday. So even had -- we would
6 not have been able to get an expert in time to analyze the
7 government's expert's conclusions.

8 THE COURT: I thought you said you already went to an
9 expert and they could not provide you with that information.

10 MS. ROSSI: Well, we had a different expert,
11 Your Honor, who analyzed just the contents of what was on the
12 devices, and that expert was not an expert in morphing or
13 compositing or digital altering of images. So our expert that
14 we already have was not able to opine --

15 THE COURT: So that was an issue that you anticipated
16 might come up, I'm assuming.

17 MS. ROSSI: Your Honor, it didn't. It's the
18 government's burden to prove that --

19 THE COURT: It may not even be an issue in this case.
20 That's what I'm saying, it may not even be an issue. I'm going
21 to reserve the ruling until that part of the trial where it
22 comes up, okay.

23 MS. ROSSI: Thank you, Your Honor.

24 MR. PENCE: Thank you, Your Honor.

25 THE COURT: And if it comes up at that time and if we

1 do allow the expert, counsel, I can tell you right now I'll
2 give you time as far as continuing this case over. We can do
3 this -- it's a court trial, to -- if you need it, to provide
4 you time to get an expert on it.

5 Okay. Let's go. Ready to proceed? Any other matters you
6 want before? Motions in limine, anything else, before?

7 MR. PENCE: No, Your Honor. The government is ready
8 to proceed.

9 THE COURT: Go ahead. Go ahead.

10 Do you care to make an opening statement, Counsel?

11 MR. PENCE: We do, Your Honor.

12 THE COURT: Okay. Go ahead.

13 MR. PENCE: Your Honor, on October 28th, 2015, the
14 United States charged the defendant with a three-count
15 indictment. The first and second count in that indictment were
16 for advertising and distribution of child pornography in 2015.
17 The third count of that indictment concerned defendant's
18 possession of child pornography in 2014.

19 As Your Honor just recognized a moment ago, on July 12th,
20 defendant pleaded to the 2015 distribution charge and the 2014
21 possession charge. So all that is before the Court to decide
22 today is whether the defendant committed the crime of
23 advertising child pornography.

24 The elements of that crime are, one, that the defendant
25 knowingly made, printed, published or caused to be made,

1 printed or published, an advertisement; two, that the
2 advertisement offered to receive, exchange, buy, produce,
3 display, distribute or reproduce any visual depiction if the
4 production of that visual depiction utilized a minor engaging
5 in sexually explicit conduct and such visual depiction is of
6 such conduct; and three, that the defendant knew or had reason
7 to know the advertisement would be transported across state
8 lines or mailed, or such advertisement was actually transported
9 across state lines or mailed.

10 As the Court will hear today, defendant advertised to
11 others that he had child pornography to exchange. He made this
12 advertisement using an Internet application called Kik
13 Messenger. That application hosts online chat rooms. A chat
14 room consists of a continuous feed of posts by the members of
15 that chat room. Those posts could consist of text messages,
16 videos or photographs.

17 On August 26, 2015, the defendant visited an existing chat
18 room called "#NEPILOVERS." The home screen for that chat room
19 made clear that the chat room was about and for child
20 pornography. Specifically, the home screen for that chat room
21 stated, quote, "All the things toddler n nepi," end quote. The
22 term "nepi" is simply shorthand for the term "nepiophilia,"
23 which is a subtype of pedophilia that specifically involves a
24 sexual attraction to toddlers and infants.

25 Now, defendant's Kik account was not in his own name.

1 Rather, the defendant used a false name to disguise his
2 identity on Kik. The false name that he used was Bobby Green.

3 Now, shortly after the defendant entered the chat room, he
4 made the advertisements that are the subject of this case.
5 Specifically, he advertised to the other members of the chat
6 room that he had child pornography to distribute or to trade.
7 Specifically, he stated, and I quote, one, "You guys like
8 toddler boys or girls? I have pics and vids of both," end
9 quote.

10 He also said, quote, "I have tons of pics and vids of
11 little boys and girls. PM me for chat and trade of kids under
12 six," end quote.

13 Now, the term "PM" is shorthand for "personal message," or
14 "private message." Private messages are a feature that the Kik
15 application has that allows its users to communicate privately
16 outside the context of the chat room environment.

17 Defendant, in other words, advertised for the trade or
18 distribution of child pornography within the chat room, which
19 could accommodate up to 50 people, and invited other members of
20 that chat room to then trade, trade photographs or videos of
21 child pornography in private communications that would not be
22 made public to the entire chat room. Moreover, that day, the
23 defendant posted, alongside these advertisements, sexually
24 explicit photos of children; specifically, infants engaged in
25 sexually explicit acts.

1 Now, notably, the defendant's plea to distribution of
2 child pornography related precisely to the photos and videos
3 that he posted within the NEPILOVERS chat room.

4 In October 2015, Special Agent Patrick McCall uncovered
5 Bobby Green's advertisements inside the NEPILOVERS chat room.
6 He investigated those advertisements, and he was able to
7 determine from his office in Delaware that those posts had been
8 made by an IP address located in Moreno Valley, California.

9 On October 13th, 2015, law enforcement executed a search
10 warrant at that address. Defendant was present when that
11 search warrant was executed. Law enforcement found that day on
12 defendant's person his iPhone, which he used to distribute
13 child pornography on Kik. They also found in defendant's
14 bedroom two HTC mobile phones, which defendant also used for
15 the purpose of distributing child pornography.

16 That day, law enforcement was able to access defendant's
17 phones because defendant provided law enforcement with the
18 passwords that were necessary to access them, and on those
19 phones, law enforcement found pictures of child pornography and
20 videos of child pornography, and specifically, law enforcement
21 found photographs and video that are visually similar to the
22 photographs that defendant -- and video that defendant posted
23 on Kik.

24 Now, that day, law enforcement had the opportunity to
25 interview the defendant, and during that interview, the

1 defendant made numerous admissions that are relevant to this
2 case.

3 First, defendant admitted that the Bobby Green account
4 belonged to him. And not only that, but that he had had that
5 account for at least six months, which means that he had had
6 that account since before the advertisements that are the
7 subject of this trial were posted.

8 Defendant also admitted during that interview that he used
9 the Bobby Green account to distribute child pornography.
10 Defendant admitted that he used his smartphones to upload child
11 pornography to the #NEPILOVERS chat room. He admitted that his
12 iPhone contained child pornography and that law enforcement
13 should expect to find it there, and he admitted that possessing
14 and -- that he knew that possessing and distributing child
15 pornography is illegal.

16 He also admitted that the child pornography that was on
17 his electronic devices depicted actual children. Not cartoons,
18 not paintings, not impressionistic stylizations of children,
19 but actual children.

20 And defendant also admitted to having molested his niece,
21 including when she was as young as six months old.

22 Your Honor, the government will present evidence today
23 that clearly meets the elements of advertising child
24 pornography. Therefore, the United States asks the Court,
25 after reviewing all of this evidence and hearing it here today,

1 to return a guilty verdict.

2 Thank you.

3 THE COURT: Thank you, Counsel.

4 Counsel, would you care to make an opening statement now,
5 or would you like to reserve it?

6 MS. ROSSI: We'll reserve it, Your Honor.

7 THE COURT: Okay.

8 Counsel, you want to call your first witness?

9 MS. PALMER: Yes, Your Honor.

10 The government calls Special Agent Patrick McCall to the
11 stand.

12 THE CLERK: Good morning. Right here to be sworn,
13 please.

14 Do you solemnly swear the testimony that you are about to
15 give in the matter now before the Court shall be the truth, the
16 whole truth, and nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Thank you. You may be seated.

19 May I please ask that you state your full name for the
20 record and spell your last name.

21 THE WITNESS: Patrick Michael McCall, M-c-C-a-l-l.

22 THE COURT: You may inquire, Counsel.

23 MR. PENCE: Thank you, Your Honor.

24 ///

25 ///

PATRICK MICHAEL McCALL, GOVERNMENT'S WITNESS,

DIRECT EXAMINATION

BY MS. PALMER:

Q. Good morning, Agent McCall.

A. Good morning.

Q. Could you please tell the Court where you work.

A. I'm a special agent with the Department of Homeland Security, Homeland Security Investigations, in Wilmington, Delaware.

Q. And what does your group do?

A. I'm primarily responsible for the investigations of cases involving child exploitation, the distribution of child pornography, and solicitation of minors online.

Q. And what is your position within that group?

A. I'm a special agent.

Q. And what does that job entail?

A. The investigation of these crimes on the Internet.

Q. How did you come to be involved in today's case?

A. I was conducting an undercover investigation on the Kik social media application.

Q. What is Kik?

A. Kik is essentially a mobile social media application that allows the users to communicate online and send messages between both parties. They can send messages individually or in a group setting and can transmit videos and images to each

1 other.

2 Q. And are those messages, videos and images transmitted
3 through the Internet?

4 A. They are.

5 Q. How does a Kik chat room work?

6 A. Essentially a Kik chat room is created by another -- by
7 essentially a moderator. The Kik group or chat room can have
8 up to 50 members in the group, and in that group the users can
9 exchange messages, images and videos.

10 Q. How do you go about your Kik undercover investigations?

11 A. In this particular instance, we took over the account of a
12 registered sex offender. He was utilizing Kik to distribute
13 child pornography. Through this use, we were able to go into
14 rooms that were being utilized for the distribution of child
15 pornography.

16 Q. Did you ever access a Kik chat room called NEPILOVERS?

17 A. I did.

18 Q. How did you come across that chat room?

19 A. A link to the NEPILOVERS chat group was posted in one of
20 the other chat groups that we were currently in. So I clicked
21 on the hyperlink that was posted by another user and was
22 granted access to that, to the NEPILOVERS chat group.

23 Q. And when was that?

24 A. It would have been sometime after March of 2015.

25 Q. Were you in the NEPILOVERS chat room in October of 2015?

1 A. I was.

2 Q. Specifically when in October?

3 A. In October I was in the NEPILOVERS chat group on October
4 8th and October 12th of 2015.

5 Q. When you were in NEPILOVERS chat room, did you make any
6 observations about the conduct that you saw there?

7 A. Yes.

8 Q. What kind of conduct did you observe?

9 A. I noticed that the users within the chat group were
10 posting images of child pornography. They were also posting
11 videos as well.

12 Q. Was all of this conduct on or after October 8th, 2015?

13 A. Actually, it was -- the conduct actually went back as far
14 as August 26th of 2015.

15 Q. How were you able to see the conduct that took place on
16 August 26, 2015?

17 A. When the poster made -- in the Kik chat group, the posts
18 are chronological in order, so they go from the first post to
19 the last.

20 Q. When you accessed the NEPILOVERS chat room, what user name
21 did you use?

22 A. "Likes Them Young."

23 Q. And why did you choose that user name?

24 A. Essentially we chose that undercover screen name based on
25 the fact that it was sexually suggestive to having a sexual

1 interest in children.

2 Q. Was there any member of the Nepilover group that caught
3 your interest?

4 A. Yes.

5 Q. Who was that?

6 A. There was a user who had had the display name Bobby Green.

7 Q. Agent McCall, can you please turn to Exhibit 10 in the
8 binder in front of you. Do you recognize that exhibit?

9 A. Yes.

10 Q. How do you recognize it?

11 A. Because it has my signature on it.

12 Q. And what is it?

13 A. Essentially it's a clip of a video I made from my
14 undercover iPad one of the days that I was in the NEPILOVERS
15 chat group.

16 Q. When did you take that video?

17 A. It would have either been on October 8th or October 12th
18 of 2015.

19 Q. And what does this video show?

20 A. Video shows the posts by a Kik user, Bobby Green, and the
21 post of child pornography that it was making within the room.

22 Q. Why did you take that video?

23 A. The reason I took this video was that the user, Bobby
24 Green, had no avatar associated with his screen name, so when
25 you looked at the actual NEPILOVERS chat group, all you saw was

1 a blank image. So by making a video, I went through each of
2 his posts and clicked on his avatar, showing that the actual
3 person making the post was the user Bobby Green.

4 Q. And is the video in Exhibit 10, is that a fair and
5 accurate representation of the video that you took from your
6 iPad?

7 A. It is.

8 Q. And is it a fair and accurate representation of what you
9 observed in the NEPILOVERS chat room?

10 A. It is.

11 MS. PALMER: Your Honor, at this time I would move
12 Exhibit 10 into evidence.

13 THE COURT: It will be received.

14 *(Received in evidence, Government's Exhibit 10.)*

15 MS. ROSSI: Your Honor, we still have -- some of the
16 contents of that video are subject to our motion in limine to
17 exclude images of child pornography as well as videos.

18 THE COURT: I understand that is part of it. Counsel,
19 one of the -- in that motion in limine, one of the things the
20 Court is concerned about, and I'll tell both sides, one, is it
21 relevant; two, is it repetitive, is there a need for it. Okay.

22 MS. PALMER: Yes, Your Honor. Can I take those
23 questions in turn?

24 THE COURT: I'm sorry?

25 MS. PALMER: May I take those questions in turn?

1 THE COURT: Yes.

2 MS. PALMER: All right. So, first, it is relevant
3 because part of the government's burden --

4 THE COURT: Oh, I'm not asking for argument on it,
5 Counsel. I'm just telling you, I'm not ruling on it at this
6 time. She hasn't asked for a ruling on it at this time. I
7 don't know what it is, but I'm just telling you one of the
8 concerns the Court has is inundating or putting a whole lot of
9 images in when you only need one or two.

10 MS. PALMER: Understood, Your Honor.

11 THE COURT: Okay.

12 MS. PALMER: At this time I would ask Agent Ruiz --

13 THE COURT: Counsel, if there's something that comes
14 up that you feel is irrelevant, not repetitive, irrelevant, let
15 me know.

16 MS. ROSSI: Thank you, Your Honor.

17 MS. PALMER: Agent Ruiz, can you please play Exhibit
18 10.

19 And I'll warn the Court that this does contain child
20 pornography.

21 THE COURT: Okay.

22 *(Video played.)*

23 MS. ROSSI: Your Honor, we would object. At this
24 point in the video, we believe that the rest of the video is
25 subject to our motion in limine to exclude.

1 THE COURT: Okay. Counsel, let me, yeah, indicate I
2 think it's getting repetitive now. This part of the video will
3 come in, which is the first two minutes, I guess, of the video,
4 is admissible.

5 MS. PALMER: Thank you, Your Honor.

6 Q. Agent McCall, during that video, we saw various users come
7 in and out of the NEPILOVERS chat room. What does that mean?

8 A. Well, as I stated earlier, the chat group has the capacity
9 for 50 individuals, so it's essentially a chronological feed.
10 A user could go into the chat group, post a message, and not
11 necessarily physically remain in the group until he would come
12 back in and see what other messages have been posted.

13 Q. Can you please turn to Exhibit 9 in the binder in front of
14 you. Agent McCall, do you recognize that exhibit?

15 A. Yes.

16 Q. How?

17 A. These are screen captures I made of my iPad device on the
18 day that I was in the NEPILOVERS chat group.

19 Q. And when did you take these screen shots?

20 A. It would have been on October 8th of 2015 and October 12th
21 of 2015.

22 Q. Are these screen shots a fair and accurate representation
23 of the images that you took with your iPad and what you saw in
24 the NEPILOVERS chat room?

25 A. Yes.

1 Q. Besides the redactions?

2 A. Yes.

3 MS. PALMER: Your Honor, at this time I would move
4 Exhibit 9 into evidence.

5 THE COURT: Be received.

6 *(Received in evidence, Government's Exhibit 9.)*

7 MS. ROSSI: Your Honor, and again, the last nine pages
8 of the exhibit are subject to the motion in limine. They
9 correspond with the portion of the video that the Court
10 excluded.

11 THE COURT: Okay.

12 Okay. Go ahead, Counsel.

13 MS. PALMER: Thank you, Your Honor.

14 Q. Agent McCall, where were you when you took the video that
15 we saw in Exhibit 10?

16 A. In the state of Delaware.

17 Q. And where were you when you took the iPad pictures?

18 A. In the state of Delaware.

19 Q. When you joined the NEPILOVERS chat room, did you
20 investigate it?

21 A. Yes.

22 Q. How?

23 A. We attempted to identify the user Bobby Green who had
24 posted images and videos of child pornography within that
25 group.

1 Q. Did you do anything to investigate the NEPILOVERS chat
2 room generally?

3 A. Not necessarily, no.

4 Q. Did the NEPILOVERS chat room have a profile?

5 A. It did.

6 Q. And did you get any information about that chat room from
7 the profile?

8 A. Yes.

9 Q. What information did you get?

10 A. I went to the actual profile page and made a screen
11 capture of it. The profile page shows the hash -- the actual
12 name of the chat group as being NEPILOVERS. The display name
13 states all that they --

14 MS. ROSSI: Objection, hearsay.

15 THE COURT: I'm sorry?

16 MS. ROSSI: Hearsay.

17 MS. PALMER: Your Honor, if I may.

18 THE COURT: Yes.

19 MS. PALMER: It's not hearsay because it's not being
20 submitted for the truth of the matter asserted. It's going to
21 defendant's knowledge and intent as to what he was advertising
22 when he posted his messages in the NEPILOVERS chat room.

23 THE COURT: Overruled.

24 BY MS. PALMER:

25 Q. Agent McCall, you can continue.

1 A. The display name for the -- stated "All the things
2 toddler n nepi." And above that, there was an avatar which
3 showed pictures of young toddlers and an adult male's penis.

4 Q. Agent McCall, do you know what "nepi" means?

5 A. "Nepi" refers to nepiophilia, which is a sexual attraction
6 to infants and toddlers.

7 Q. You mentioned that you conducted an investigation of Bobby
8 Green. How did you do that?

9 A. We served a DHS summons on Kik Messenger for subscriber
10 information relating to that user account.

11 Q. Did Bobby Green have a profile in the NEPILOVERS chat
12 room?

13 A. He had a profile, yes.

14 Q. Did you learn any information from that profile?

15 A. Just that his display, there was no avatar associated with
16 his screen name and that -- only that his display name was
17 Bobby Green.

18 Q. Was there an account name as well as the display name?

19 A. Yes. His Kik user name was CM8JIAW4.

20 Q. Does Kik have a time and date stamp feature?

21 A. Yes.

22 Q. And the time and date stamps that we see in the video and
23 on the iPad captures, what time zone are those in?

24 A. Eastern Standard Time.

25 Q. And why is that?

1 A. Because I was accessing them from the state of Delaware,
2 which would have been Eastern Standard Time as well.

3 Q. Agent McCall, can you please turn to page 3 of Exhibit 9.
4 Did you see posts from Bobby Green on August 26, 2015?

5 A. I did.

6 Q. What did you see?

7 A. The post from October 26 of 2015, essentially there's
8 three to four posts regarding where he states, "Hi, you guys
9 like toddler boys or girls?" question mark. "I have pics and
10 vids of both," with a wink emoji.

11 Q. Did Bobby Green post anything else on October 26, 2015?

12 A. He posted a message, "You guys like toddler boys and
13 girls?" question mark. "I have pics and vids of both," winking
14 emoji, and then two images of child pornography.

15 Q. Did he post anything else that day?

16 A. He finally posted a message, "I have tons of pics and vids
17 of little boys and girls. PM me for chat and trade of kids
18 under six," with a winking emoji.

19 Q. You said "PM." Does Kik have a private messaging feature?

20 A. Yes.

21 Q. What does that feature allow?

22 A. Essentially allows the users to communicate one-on-one
23 between one another.

24 Q. Did you see Bobby Green post on another day in the
25 NEPILOVERS chat room?

1 A. Yes.

2 Q. What day was that?

3 MS. ROSSI: Your Honor, objection again. This goes to
4 the motion in limine.

5 THE COURT: As to -- I'm sorry, Counsel?

6 MS. ROSSI: As to everything posted in October, the
7 defense has objected on multiple grounds.

8 MS. PALMER: Your Honor, may I respond?

9 THE COURT: Yes, you may.

10 MS. PALMER: These are messages and images that are
11 posted by the defendant using the same screen name in the same
12 account. They're essentially part of the same conversation.
13 As such, they provide important context for the messages that
14 he displayed on August 26th.

15 THE COURT: I think so. I'm going to overrule the
16 objection.

17 MS. ROSSI: Your Honor, is the Court still going to
18 hear the motion in limine? It's a little more detailed than
19 the argument that --

20 THE COURT: Counsel, let me help you out. All the
21 motions in limine at this time I'm denying without prejudice.
22 You can bring them up as they come up in trial. The only
23 reason I would be sympathetic towards your motions in limine,
24 as I've said before, the only reason I'd be granting the
25 motions in limine on the ones that you've mentioned, it was

1 under 403, because it is more prejudicial and probative because
2 it's already in. You know, that's the repetitiveness of it.
3 But so we won't have just objections constantly going as far as
4 the motions in limine, all motions in limine are denied at this
5 time subject to you renewing them at the time that you feel
6 it's proper in the case.

7 MS. ROSSI: Understood, Your Honor. And just to
8 clarify, it's a separate conversation in October that the
9 defense is --

10 THE COURT: I understand that. And I'm assuming
11 you're -- he's not being charged with this, is what you're
12 saying.

13 MS. ROSSI: Correct.

14 THE COURT: He's being charged with the first one.
15 And you're introducing it to show? Counsel?

16 MS. PALMER: I'm introducing the messages from October
17 7th and October 13th to show his knowledge as to the -- what he
18 was advertising by placing the messages that he wrote on August
19 26, and this provides context for where he is and what people
20 are looking for there.

21 THE COURT: For that reason, the Court is overruling
22 the objection.

23 MS. PALMER: Thank you, Your Honor.

24 Q. Agent McCall, what was the next day that you saw Bobby
25 Green post in the NEPILOVERS chat room?

1 A. It would have been October 7th of 2015.

2 Q. And what did he post that day?

3 A. I believe he posted three images of child pornography and
4 one video.

5 Q. What was the name of that video?

6 A. The video was titled "2YO boy toddler baby ram it fucks
7 and swallows dot avi."

8 Q. Did Bobby Green post any text messages?

9 A. Yes.

10 Q. What were those?

11 A. He posted, "Hello," smile emoji, "I'm liking the name of
12 this group," heart emoji.

13 Q. Did he post anything else on October 7th?

14 A. He posted, "You guys like?" question mark.

15 Q. Did anyone respond?

16 A. One user responded, "Yeah."

17 Q. Were there any other days that Bobby Green posted in the
18 NEPILOVERS chat room?

19 A. Yes. He posted on October 11th -- I'm sorry. Yes,
20 October 11th of 2015.

21 THE COURT: Counsel, the objection now is going to be
22 sustained by the Court as being cumulative and more
23 time-consuming and prejudicial than it is probative.

24 MS. PALMER: Thank you, Your Honor. I'll move on.

25 Q. Agent McCall, can you please turn to Exhibit 12 in the

1 binder in front of you. Do you recognize that exhibit?

2 A. I do.

3 Q. How?

4 A. These are captures of the actual video that was posted on
5 October 11th. And I've actually watched the video itself.

6 Q. And are these captures a fair and accurate representation
7 of what you saw in the video that you downloaded from the
8 NEPILOVERS chat room?

9 A. They are.

10 Q. Is this the same video that you mentioned earlier?

11 A. It is.

12 Q. And are they a fair and accurate representation, with the
13 exception of the fact that these are redacted?

14 A. Yes.

15 MS. PALMER: Your Honor, at this time I would move
16 Exhibit 12 into evidence.

17 MS. ROSSI: Your Honor, if I could, this is the video
18 that Mr. Harper pled guilty two in Count 2. We're objecting as
19 it being -- as this video being irrelevant and under 403, but
20 specifically, this is a video October 7th that Mr. Harper pled
21 guilty to in Count 2. It is separate from the August 26th
22 advertising charge.

23 MS. PALMER: May I respond, Your Honor?

24 THE COURT: No. It's overruled.

25 MS. PALMER: Thank you, Your Honor.

1 Q. Agent McCall, do you want me to repeat the question?

2 A. Yes, please.

3 Q. Are the images in Exhibit 12 an accurate representation of
4 what you saw in that video?

5 A. They are.

6 MS. PALMER: I would move to admit Exhibit 12 into
7 evidence.

8 THE COURT: Be received.

9 MS. PALMER: Thank you, Your Honor.

10 *(Received in evidence, Government's Exhibit 12.)*

11 BY MS. PALMER:

12 Q. Agent McCall, can you please turn to Exhibit 1 in the
13 binder in front of you. Do you recognize that exhibit?

14 A. I do.

15 Q. How?

16 A. This is a copy of a production of records that I received
17 from Kik Messenger pursuant to the summons I served upon them.

18 Q. Are these true and correct copies of the return that you
19 received from Kik?

20 A. Yes.

21 Q. And what did you learn from these documents?

22 A. The documents provided me information relating to the
23 subscriber account for Bobby Green on the Kik Messenger
24 network. It essentially told me what his user name and display
25 name were and that he was using an Android phone on the Sprint

1 network to access Kik.

2 Q. Did those records also tell you an e-mail address that was
3 associated with the Bobby Green account?

4 A. Yes.

5 Q. What was that?

6 MS. ROSSI: Objection, hearsay.

7 THE COURT: Overruled.

8 THE WITNESS: Fakesofemail@fakemails.com.

9 BY MS. PALMER:

10 Q. Could that be fakestofemail@fakermails.com?

11 A. Yes, I'm sorry, that's correct.

12 Q. And did that document give you any information about the
13 IP address associated with the Bobby Green account?

14 A. It did.

15 Q. What did it tell you?

16 A. The records show that an IP address of 104.175.141.234 was
17 used to access Kik Messenger.

18 Q. After receiving this information from Kik, what was the
19 next step of your investigation into Bobby Green?

20 A. We conducted an investigation of that particular IP
21 address that I just described. We learned that the IP address
22 was located in the Riverside, California, area.

23 Q. How did you learn that?

24 A. Through a website called Maxmind.com. It's basically a
25 website that allows -- that provides information regarding IP

1 addresses, geo location, and who is actually the host of that
2 IP address.

3 Q. And what did you learn from Maxmind.com about the IP
4 address associated with the Bobby Green account that was
5 posting in NEPILOVERS?

6 A. We learned that the IP address was subscribed to Time
7 Warner Cable and was located in the Riverside, California,
8 area.

9 Q. Can you please turn to Exhibit 5 in the binder in front of
10 you. Do you recognize that document?

11 A. I do.

12 Q. How?

13 A. This is a copy of the production of records that was
14 provided to me by Time Warner Cable pursuant to the summons I
15 served upon them for that IP address I just described.

16 Q. And is that a true and correct copy of the return that you
17 received from Time Warner Cable?

18 A. It is.

19 Q. And what did you learn from that document?

20 A. The document showed that this particular IP address was
21 subscribed to an Angelo Harper, the subscriber address is 12959
22 Lasselle Street in Moreno Valley, California, and that the
23 service was currently active since October 5th of 2010.

24 Q. Did this return from Time Warner Cable tell you about when
25 this account was used?

1 A. Yes.

2 Q. Did it specifically say it was used at a time associated
3 with any activity you saw in the NEPILOVERS chat room?

4 A. Yes.

5 Q. What was that?

6 MS. ROSSI: Objection, hearsay.

7 THE COURT: Over- --

8 MS. ROSSI: It's also not contained in the document,
9 Your Honor.

10 THE COURT: Sustained. Sustained.

11 BY MS. PALMER:

12 Q. You can answer the question, Agent McCall.

13 THE COURT: No, it's sustained.

14 MS. PALMER: Oh, it's sustained?

15 Q. What information did you give Time Warner Cable in order
16 to receive this return?

17 A. We provided Time Warner Cable with the IP address and a
18 time range when the images were posted to -- images and videos
19 were posted to the NEPILOVERS chat group.

20 Q. Thank you, Agent McCall.

21 What did you do next in your investigation?

22 A. We conducted an investigation of Angelo Harper to verify
23 that he was actually the subscriber at this address in Moreno
24 Valley, California.

25 Q. And what did you do next?

1 A. We learned that Angelo Harper was a registered sex
2 offender, and based on those circumstances, we contacted the
3 HSI office in Riverside, California, for further investigation.

4 Q. Did you contact any particular individual there?

5 A. Special Agent Jonathan Ruiz.

6 MS. PALMER: Your Honor, may I have a moment to confer
7 with co-counsel?

8 THE COURT: Yes.

9 MS. PALMER: Thank you.

10 *(Government counsel confer privately.)*

11 MS. PALMER: No further questions at this time,
12 Your Honor.

13 THE COURT: Cross-examination.

14 **CROSS-EXAMINATION**

15 BY MS. ROSSI:

16 Q. Good morning, Agent McCall.

17 A. Good morning.

18 Q. You said that Kik is a mobile messaging device?

19 A. It's a mobile messaging application.

20 Q. And does that mean that it is used on mobile devices such
21 as cell phones?

22 A. Cell phones, tablets, yes.

23 Q. And you said that the chat groups can contain up to 50
24 people in them?

25 A. Correct.

1 Q. But that doesn't mean that they always have 50 people
2 total in the chat room.

3 A. Correct.

4 Q. And when you enter a Kik chat group, you can see who's in
5 the chat room?

6 A. You can see who are the other members at that time in
7 that -- for that group.

8 Q. And you can also see when someone enters the chat room and
9 when they leave the chat room while you're in the chat room,
10 correct?

11 A. Only if they were to post a message would I see that
12 another person, you know, was physically -- or had physically
13 posted a message to that group.

14 Q. But you also see when they enter and exit, correct?

15 A. No.

16 Q. You don't see in the Kik chat room when a user enters the
17 chat room?

18 A. Well, a message would have -- would post that
19 such-and-such has left the chat or has entered the chat, yes.

20 Q. And Agent McCall, you discuss an Angelo Harper who was a
21 registered sex offender. That was Mr. Harper here's father,
22 correct?

23 A. Yes.

24 Q. That was Angelo Harper, Sr.?

25 A. Correct.

1 Q. And that was the name of the IP address that you were
2 investigating initially on the subscriber information, correct?

3 A. Yes, that was a subscribe -- that was the subscriber for
4 that IP address, yes.

5 Q. During the course of your investigation, you also learned
6 that Kik is a company based in Canada?

7 A. It is.

8 MS. ROSSI: May I have a moment, Your Honor?

9 THE COURT: Yes.

10 MS. ROSSI: No further questions, Your Honor.

11 THE COURT: Okay. Redirect?

12 MS. PALMER: Brief, Your Honor.

13 **REDIRECT EXAMINATION**

14 BY MS. PALMER:

15 Q. Would the subscriber to an Internet service be the person
16 who pays that bill?

17 A. Not necessarily.

18 Q. Can members who view a posting -- can members in a Kik
19 chat room view a posting in that chat room even if they aren't
20 physically in the chat room at the time it's posted?

21 A. You're not -- I'm confused what you mean by "physically in
22 the chat room," chat group.

23 Q. Can a member of the chat room view something that's posted
24 in the chat room even if they don't have that Kik screen open
25 on their phone at that time that that message is posted?

1 A. Yes, because the messages are chronological in nature, so
2 the earliest message goes to the latest message.

3 Q. So a member in that chat room could post something that
4 another member could read later; is that correct?

5 A. Correct.

6 Q. And on October 8th, 2015, you read the Bobby Green
7 postings from August 26th, 2015, correct?

8 A. Correct.

9 MS. PALMER: Thank you.

10 THE COURT: Any recross?

11 MS. ROSSI: May I have a moment, Your Honor?

12 THE COURT: Sure.

13 *(Defendant's counsel confer privately.)*

14 MS. ROSSI: No questions, Your Honor.

15 THE COURT: Okay. You may step down.

16 THE WITNESS: Thank you.

17 THE COURT: Next witness.

18 MR. PENCE: Your Honor, the government calls Oladele
19 Salaam.

20 THE CLERK: Good morning, Mr. Salaam. Right here to
21 be sworn. And you prefer an affirmation?

22 THE WITNESS: Yes.

23 THE CLERK: Okay. Do you affirm under the penalty of
24 perjury that the testimony you are about to give in the cause
25 now before the Court shall be the truth, the whole truth, and

1 nothing but the truth?

2 THE WITNESS: I do.

3 THE CLERK: Thank you. You may be seated.

4 May I please ask that you state and spell your full name
5 for the record.

6 THE WITNESS: My name is Oladele Salaam.

7 O-l-a-d-e-l-e. Salaam, S-a-l-a-a-m.

8 THE COURT: Okay. You may inquire, Counsel.

9 **OLADELE SALAAM, GOVERNMENT'S WITNESS,**

10 **DIRECT EXAMINATION**

11 BY MR. PENCE:

12 Q. Mr. Salaam, what do you do for a living?

13 A. I'm a special agent with ICE, Homeland Security
14 Investigations.

15 Q. Do you have any particular responsibilities as an ICE
16 agent?

17 A. I'm a computer forensics agent.

18 Q. What is a computer forensics agent?

19 A. A computer forensics agent is a special agent who has
20 received additional training in basic computer evidentiary copy
21 training.

22 Q. When did you become a computer forensics agent?

23 A. I completed my basic training in 2013 April.

24 Q. What training have you received as a computer forensics
25 agent?

1 A. In addition to my basic computer evidentiary training,
2 I've also received advanced computer evidentiary copy training,
3 mobile forensics training, training in vendor-specific software
4 like X-Ways, EnCase and FTK.

5 Q. What computer forensics tools have you been trained to
6 use, if any?

7 A. EnCase by Guidance Software, FTK by AccessData, Analyze by
8 Griffeye. I use Cellebrite, UFED, and several others.

9 Q. How much time have you spent training specifically in the
10 forensic examination of mobile phones?

11 A. A week total.

12 Q. And how much time in total have you spent training in the
13 forensic examination of electronic devices?

14 A. 14 weeks.

15 Q. Have you performed a forensic examination of an iPhone?

16 A. Yes, I have.

17 Q. How many times?

18 A. At least 20 times.

19 Q. And have you ever performed a forensic examination of a
20 micro SD card?

21 A. Yes, I have.

22 Q. And how many times have you done that?

23 A. At least 20 times.

24 Q. How many forensic examinations in total have you
25 performed?

1 A. I've performed more than a hundred examinations.

2 MR. PENCE: Your Honor, the government offers Special
3 Agent Salaam as an expert in the area of computer forensics.

4 THE COURT: Okay.

5 BY MR. PENCE:

6 Q. Are you aware that on October 13, 2015, law enforcement
7 executed a search and seizure warrant for 12959 Lasselle Street
8 in Moreno Valley, California?

9 A. Yes, I am.

10 Q. Were you a member of the law enforcement team that
11 executed that warrant?

12 A. Yes. I participated in the search warrant.

13 Q. Do you recognize anyone in this courtroom who was present
14 during the execution of that search warrant?

15 A. Yes, I do.

16 Q. Who do you recognize that was present during the execution
17 of that search warrant?

18 A. To my right, counsel's side, I see Special Agent Jonathan
19 Ruiz, was the lead agent for the search warrant.

20 Q. Would you please describe Special Agent Ruiz. Just name
21 an article of clothing that he might be wearing or a
22 characteristic feature.

23 A. A gentleman that's bearded and wearing a suit and a white
24 shirt.

25 THE COURT: Okay.

1 MR. PENCE: May the record reflect that the witness
2 has identified Special Agent Ruiz?

3 THE COURT: I don't know if it's an issue, Counsel.
4 He hasn't --

5 MR. PENCE: No, Your Honor. It's true. Let me move
6 on.

7 Q. Do you recognize anyone else who was present during the
8 search warrant?

9 A. Yes, I do.

10 Q. Who else do you recognize?

11 A. The gentleman in white clothing to the -- to my left.

12 THE COURT: Indicating the defendant.

13 MR. PENCE: Thank you, Your Honor.

14 Q. What was your role in the execution of the search warrant?

15 A. I had two principal roles. I was part of the surveillance
16 team that sat on the house prior to the arrival of the
17 defendant, but my primary role for the day was the -- for
18 digital devices that were anticipated to be seized at the
19 location for the day.

20 Q. Did you enter the home that day?

21 A. I did.

22 Q. What did you do immediately before entering the home?

23 A. Before entering the home, I did see the defendant. I was
24 with him when he presented a phone. Then I also did a
25 walk-through of the home itself prior to doing any examination.

1 Q. What do you mean when you say the defendant presented a
2 phone?

3 A. Oh. While I was outside the home, a car did arrive at the
4 house. When it pulled into the driveway, the gentleman and an
5 individual later identified as his mother came out of the
6 vehicle. And the team that was waiting did approach them, and
7 when he was patted down, they took a phone out of his pocket.
8 That was when I was with him, I first encountered him.

9 Q. Was that phone seized at that time?

10 A. Yes.

11 Q. What kind of phone was it?

12 A. It was an Apple iPhone.

13 Q. What did you do immediately after entering the home?

14 A. Immediately after entering the home, I walked through the
15 home. I was looking -- based on the search warrant, it
16 indicated that mobile devices were involved in the crime
17 alleged. So, typically when I go into homes for search
18 warrants, I look around for things that are immediately obvious
19 to me that were as pointed out in the search warrant. So I was
20 looking for mobile phones.

21 Q. Did you follow that particular procedure on October 13,
22 2015?

23 A. I did.

24 Q. Were any electronic devices seized that day from
25 defendant's home?

1 A. Yes.

2 Q. What electronic devices were seized?

3 A. We seized some mobile phones, computers, and some external
4 storage devices.

5 Q. Did you seize a Evo Shift mobile phone?

6 A. Yes, we did.

7 Q. Do you know where that Evo Shift phone was found?

8 A. The Evo Shift was found -- when I entered the home, there
9 was a room. As soon as I went in, went to the right, there's a
10 room with a placard on it that says "AJ Room" -- "AJ's Room."
11 There was the Evo Shift on the couch in that room.

12 Q. Mr. Salaam, would you please take a look at Government's
13 Exhibits 15 and 16. They should be in the Redwell that is near
14 you.

15 THE CLERK: I'll pull those for you.

16 THE WITNESS: Okay.

17 MR. PENCE: Your Honor, I believe the courtroom
18 deputy's going to provide the Redwell for you in a moment.

19 THE COURT: Okay.

20 THE WITNESS: Thank you. Okay.

21 BY MR. PENCE:

22 Q. Do you recognize Exhibits 15 and 16?

23 A. Yes, I do.

24 Q. How do you recognize those exhibits?

25 A. 15 is the iPhone that was recovered from the person of

1 the defendant, and 16 is the HTC phone that I referred to
2 earlier that I saw on the couch in the room labeled "AJ's
3 Room."

4 MR. PENCE: Your Honor, government moves to admit
5 Exhibits 15 and 16.

6 THE COURT: Be received.

7 *(Received in evidence, Government's Exhibits 15 and 16.)*

8 MS. ROSSI: Your Honor, the defense, just for the
9 record, preserves its motion to suppress on these two phones
10 that were seized.

11 THE COURT: And that will be noted for the record,
12 Counsel. Thank you.

13 MS. ROSSI: Thank you, Your Honor.

14 BY MR. PENCE:

15 Q. Was there any on-site inspection of Exhibits 15 and 16
16 conducted that day?

17 A. Yes.

18 Q. Who performed that inspection?

19 A. I did.

20 Q. What was the purpose of that inspection?

21 A. Because they are mobile phones, the priority inspection is
22 to make sure I take them offline. Mobile devices, they keep
23 receiving signal, and since the goal is to preserve evidence,
24 we try to take them offline right away and then do -- once they
25 are offline, I do a preliminary review of the device.

1 Q. Were the phones locked when you first received them?

2 A. Yes.

3 Q. Were you ever -- were you able to unlock those phones?

4 A. Yes, I was.

5 Q. Did you obtain the password from those -- for those
6 phones?

7 A. I did.

8 Q. And from whom did you obtain the password for those
9 phones?

10 A. Special Agent Jonathan Ruiz.

11 Q. Was the Kik Messenger application open on either of those
12 phones after you were able to input the password?

13 A. When I opened the HTC phone, it opened to a Kik
14 application, but not the iPhone.

15 Q. And was there any specific account that was locked in --
16 logged in on that Kik Messenger application?

17 A. No. It was just open to the login screen.

18 Q. What did you do with the electronic devices after you
19 seized them?

20 A. Once I identified the device we needed to seize, I
21 presented it to the recording agent for recording.

22 Q. Did the recording agent return those devices to you?

23 A. Yes.

24 Q. And after the devices were returned to you, what did you
25 do with them?

1 A. I took them to my lab and did my examination.

2 Q. After you returned to the lab, how long did you maintain
3 custody of the Evo Shift and the iPhone?

4 A. I had them for about a week.

5 Q. Did you conduct a forensic examination of the contents of
6 the iPhone and the Evo Shift?

7 A. I did.

8 Q. Who asked you to perform that examination, those
9 examinations?

10 A. Special Agent Jonathan Ruiz, pursuant to a federal search
11 warrant which I had prior.

12 Q. Did you prepare a written report of your examinations?

13 A. I did.

14 Q. What was the purpose of those examinations?

15 A. Guided by the search warrant, the purpose is to find
16 evidence or -- either inclusive or exculpatory in nature
17 highlighted in the warrant, and present them to Special Agent
18 Ruiz for review.

19 Q. How did you go about analyzing the Evo Shift phone in
20 particular?

21 A. So the -- typically, mobile phones, the goal is to try to
22 get the forensic copy of the entire device. Now, different
23 brands and the operating system on each one is different, so it
24 presents different difficulties. So my initial attempt was to
25 get a copy of the entire phone as it was. But I wasn't able to

1 do that. When I looked at the device, I found out that it also
2 includes a separate micro SD device, which is an external
3 removable storage. So since I couldn't get the whole device
4 right away, I copied the storage device by itself and processed
5 that right away because time constraint.

6 Q. Did you have any difficulty extracting the data that was
7 on that micro SD card?

8 A. No, I did not.

9 Q. How did you go about analyzing the iPhone?

10 A. Same process. I tried to get a copy of the entire device.
11 iPhone's actually unique in that later versions of the
12 operating system, it's harder to get a complete copy of
13 everything on the device because of the features that the
14 manufacturer placed in, but I was able to get what's considered
15 a logical copy of the phone to see what I could give to the
16 agent for review.

17 Q. What is a logical copy of the phone?

18 A. So, to describe a logical copy, I have to -- so, typically
19 in doing the examination, I either do a physical copy or a
20 logical copy. The way I'll describe the difference between the
21 two, a logical copy of a device is essentially you're relying
22 on the device to provide you the information. So it's like
23 meeting a stranger that you never know and saying, "Hi, what
24 time is it?" and they tell you the time. No issue with that.
25 And if you go too personal and say, "What is your name? What

1 is your husband's name?" depending on that person's
2 disposition, they may decide what they want to give to you.
3 Compare that to someone else that's -- so when you are asked
4 for the information from the device and it gives it to you
5 willingly, that information is considered a logical copy, which
6 means there's some things the device will give to me and some
7 information it will not give to me. And that varies from
8 device to device and operating system to operating system.

9 A physical is when I can get everything on my own without
10 asking the device at all, which is the preferred option. For
11 the iPhone, logical was the only option I had.

12 Q. Did you provide a copy of the extracted data from the
13 iPhone and the Evo Shift to anyone?

14 A. Yes, I did.

15 Q. Who did you provide that extracted data to?

16 A. I provided them to Special Agent Ruiz principally for
17 review.

18 Q. Are you aware of whether Mr. Ruiz reviewed that material?

19 A. Yes. He did.

20 Q. Did Mr. Ruiz provide you any information about that
21 material after you provided it to him?

22 A. Well, after he reviewed what I presented to him, he told
23 me he found --

24 MS. ROSSI: Objection, hearsay.

25 THE COURT: Sustained.

1 BY MR. PENCE:

2 Q. Did you receive any information from Mr. Ruiz about that
3 data after you provided it to him?

4 MS. ROSSI: Same objection.

5 THE COURT: Premature. Overruled at this time.

6 Did you receive any information?

7 THE WITNESS: Yes, I did.

8 THE COURT: Okay. Next question.

9 BY MR. PENCE:

10 Q. What information did you receive from Mr. Ruiz?

11 MS. ROSSI: Objection, hearsay.

12 THE COURT: Sustained.

13 MR. PENCE: Your Honor, I'm not offering the
14 information for the truth of the matter; rather, the effect on
15 the listener to describe the process that the witness went
16 through in reviewing the data.

17 THE COURT: It will still be sustained.

18 MR. PENCE: Okay. Thank you, Your Honor.

19 Q. Did you perform any further analysis or conduct any
20 further analysis on the data that was extracted from the
21 phones?

22 A. After the review, yes.

23 Q. What further analysis did you do?

24 A. Okay. Okay. When I presented the item for review, the
25 agent, pursuant to the warrant, told me what was suspected

1 child pornography.

2 MS. ROSSI: Objection, hearsay. Motion to strike.

3 THE COURT: The question is, what did you do after you
4 got this information from him? Did you do anything?

5 THE WITNESS: I did.

6 THE COURT: Okay. What did you do?

7 THE WITNESS: Oh, okay. Well, what I did is based on
8 what I got back, so -- okay. When I got the information back
9 from the agent, I tried to identify what part of the device
10 those items identified came from.

11 THE COURT: Okay.

12 THE WITNESS: And then I did a report of my findings.

13 BY MR. PENCE:

14 Q. Does the report reflect a -- all the information on the
15 phone, or a narrower part of the information that was on the
16 phone?

17 A. I'm not clear about your question.

18 Q. Let me strike that question. Move to strike that
19 question.

20 What was the purpose of the report that you prepared after
21 you received -- after you conducted your further analysis?

22 A. The report is meant to discuss my findings after the
23 examination and review by the agent.

24 Q. And generally speaking, what were your findings?

25 A. That the two devices contained evidence alleged in the

1 search warrant, and -- I'm not sure. I think that's pretty
2 much it.

3 Q. And did you provide that report to Agent Ruiz after you
4 prepared it?

5 A. Yes, I did.

6 MR. PENCE: May I consult with counsel, Your Honor?

7 THE COURT: Yes.

8 *(Government counsel confer privately.)*

9 MR. PENCE: No further questions, Your Honor.

10 THE COURT: Okay. Cross?

11 MS. ROSSI: No questions, Your Honor.

12 THE COURT: Okay. I'm going to take the liberty of
13 just asking a couple of questions. I'm not too sure how
14 relevant it is.

15 You described the difference between a logical examination
16 and a direct examination.

17 THE WITNESS: And a physical.

18 THE COURT: And a physical examination.

19 THE WITNESS: Yeah.

20 THE COURT: A logical examination, you go to the phone
21 and you ask of the phone what's on it?

22 THE WITNESS: Correct.

23 THE COURT: How do you do a physical exam? What's the
24 difference?

25 THE WITNESS: Not to be too -- a physical, it's like a

1 dead body, essentially. You can go physically pick through the
2 dead body and do whatever you want to do with it, as opposed to
3 a living human being where you say, "Where's your heart?" I
4 can decide to tell you or not logically. But a physical is you
5 have access to everything and you can take what's there without
6 asking for phone for it.

7 I'm not sure --

8 THE COURT: Well, I'm not too sure it's that relevant
9 to the case, but I certainly don't understand.

10 THE WITNESS: The key thing is, physical, you have
11 hundred percent of the information. Logical, you get what you
12 get; it's not necessarily a hundred percent.

13 THE COURT: Yeah, but you have to get to the phone to
14 get the information even on a physical examination.

15 THE WITNESS: Correct.

16 THE COURT: Well, I don't want to waste time on this.
17 It's probably not relevant. It's just interesting information.

18 Any further questions of this witness, either side?

19 MS. ROSSI: No, Your Honor.

20 MR. PENCE: No, Your Honor.

21 THE COURT: Okay. You may step down. Thank you very
22 much.

23 THE WITNESS: Thank you, Your Honor.

24 MR. PENCE: Your Honor, the government calls Special
25 Agent Jonathan Ruiz.

1 THE CLERK: Please --

2 THE COURT: We can now identify you.

3 Go ahead.

4 THE CLERK: Do you solemnly swear the testimony that
5 you are about to give in the matter now before the Court shall
6 be the truth, the whole truth, and nothing but the truth, so
7 help you God?

8 THE WITNESS: I do.

9 THE CLERK: Thank you. You may be seated.

10 May I please ask that you state your full name for the
11 record and spell your last name.

12 THE WITNESS: Name is Jonathan Ruiz. First name is
13 spelled J-o-n-a-t-h-a-n. Last, R-u-i-z.

14 THE CLERK: Thank you.

15 THE COURT: You may inquire, Counsel.

16 **JONATHAN RUIZ, GOVERNMENT'S WITNESS,**

17 **DIRECT EXAMINATION**

18 BY MR. PENCE:

19 Q. Special Agent Ruiz, where do you work?

20 A. I work for Department of Homeland Security, Immigration
21 and Customs Enforcement, Homeland Security Investigations in
22 our office in San Bernardino.

23 Q. What is your job title?

24 A. I'm a special agent.

25 Q. How long have you been a special agent with ICE?

1 A. Since April of 2007.

2 Q. What is a special agent?

3 A. Special agent is a criminal investigator assigned to
4 investigate crimes within -- within our jurisdiction or our
5 statutes.

6 Q. What particular crimes do you investigate?

7 A. I'm assigned to a group that is assigned primarily child
8 exploitation cases, terrorism cases and immigration compliance
9 cases.

10 Q. On or about October 13, 2015, did you obtain a search and
11 seizure warrant for 12959 Lasselle Street in Moreno Valley,
12 California?

13 A. Yes, I did.

14 Q. Why did you obtain that warrant?

15 A. I had received information from an office, our office in
16 HSI Delaware, that identified a residence in our area of
17 responsibility that was suspected of distributing child
18 pornography and producing child pornography.

19 Q. Did anyone assist you in the execution of that warrant?

20 A. Yes. Various individuals from our group in HSI Riverside.

21 Q. If I refer to the address 12959 Lasselle Street as "the
22 residence," will you understand what I'm speaking of?

23 A. Yes, I will.

24 Q. What did the residence look like?

25 A. Single-story residence, attached garage.

1 Q. Was there anyone present at the address other than law
2 enforcement?

3 A. When the --

4 Q. At the time the search warrant was executed.

5 A. Yes.

6 Q. Who was present then?

7 A. The defendant, Angelo Harper, Jr., and his mother.

8 Q. Is Mr. Harper present in the courtroom?

9 A. Yes, he is.

10 Q. Would you please identify a piece of clothing that
11 Mr. Harper is wearing.

12 A. He's wearing the white jumpsuit.

13 THE COURT: Indicating the defendant.

14 BY MR. PENCE:

15 Q. Did you seize any electronic devices from the defendant's
16 residence?

17 A. Yes, we did.

18 Q. What devices did you seize?

19 A. Seized computers, mobile phones, external storage media
20 devices.

21 Q. And how did you know that defendant resided there?

22 A. I had encountered him there, and he had identified that he
23 had a room at that residence.

24 Q. What devices did you seize?

25 A. We seized computers, mobile phones and digital devi- --

1 thumb drives, external devices.

2 Q. Would you please take a look at Exhibits 15 and 16. Do
3 you recognize Exhibits 15 and 16?

4 A. I do.

5 Q. What are they?

6 A. They're mobile phones.

7 Q. Would you please also take a look at Exhibit 17.

8 THE CLERK: Physical?

9 *(Exhibit was handed to the witness by the clerk.)*

10 THE WITNESS: Thank you.

11 BY MR. PENCE:

12 Q. Do you recognize Exhibit 17?

13 A. I do.

14 Q. How do you recognize Exhibits 15, 16 and 17?

15 A. We seized them from the residence.

16 MR. PENCE: Your Honor, the government moves to admit
17 Exhibit 17; Exhibits 15 and 16 having already been admitted.

18 THE COURT: It will be received.

19 MR. PENCE: Thank you, Your Honor.

20 *(Received in evidence, Government's Exhibit 17.)*

21 BY MR. PENCE:

22 Q. At your ICE office, is there a procedure for examining the
23 content of electronic devices?

24 A. Yes, there is.

25 Q. What is that procedure?

1 A. When a device or evidence has been seized, if it's an
2 electronic device, we typically will provide that to our
3 computer forensics agent, who will acquire the data on those
4 devices and make it available for the case agent to review to
5 determine if there is evidence on the device within the scope
6 of the search warrant.

7 Q. Was that procedure followed in this case?

8 A. Yes, it was.

9 Q. And was it followed with respect to Exhibits 15 through
10 17?

11 A. Yes, it was.

12 THE COURT: Let me just stop you for a second, because
13 I'm not too sure it's been identified.

14 Can you identify what 17 is? You identify that you seized
15 it, but what exactly is it?

16 THE WITNESS: 17 is a mobile phone.

17 THE COURT: Okay.

18 BY MR. PENCE:

19 Q. What kind of a mobile phone is it?

20 A. This -- 17 is the HTC Hero.

21 THE COURT: Okay.

22 MR. PENCE: Thank you.

23 Q. As a result of this process, did you obtain forensic
24 copies of files found on defendant's iPhone and on the micro SD
25 card on his Evo Shift phone?

1 A. Yes, I did.

2 Q. From whom did you obtain those forensic copies?

3 A. Computer forensics Agent Salaam.

4 Q. Would you please take a look at Exhibit 19.

5 A. Yes.

6 Q. You recognize Exhibit 19?

7 A. Yes, I do.

8 Q. How do you recognize Exhibit 19?

9 A. I signed it.

10 Q. And what does Exhibit 19 contain?

11 A. It contains three images.

12 MR. PENCE: Your Honor --

13 THE COURT: Three images from where?

14 THE WITNESS: These -- the three images that are on
15 this disc are three images that were recovered from the
16 defendant's iPhone.

17 BY MR. PENCE:

18 Q. Are the images that are on that disc fair and accurate
19 representations of the images that were found on defendant's
20 iPhone?

21 A. Yes, they are.

22 MS. ROSSI: Objection, foundation. Objection same as
23 in the motion in limine as to the images.

24 THE COURT: Overruled.

25 MR. PENCE: Your Honor, the government moves to admit

1 Exhibit 19.

2 THE COURT: It will be received.

3 *(Received in evidence, Government's Exhibit 19.)*

4 BY MR. PENCE:

5 Q. Would you please just describe for us the images that are
6 in Exhibit 19.

7 A. Child pornography involving infants, toddlers.

8 Q. Would you please take a look at Exhibit 18.

9 A. Yes.

10 Q. Do you recognize Exhibit 18?

11 A. Yes, I do.

12 Q. What is Exhibit 18?

13 A. These are -- these are the photos recovered from the
14 defendant's iPhone that I have redacted for the purpose of
15 creating this exhibit.

16 Q. And do those images fairly and accurately reflect the
17 contents of the files found on defendant's iPhone?

18 A. Yes, they do.

19 MR. PENCE: Your Honor, the government moves to admit
20 Exhibit 18.

21 MS. ROSSI: Same objection, Your Honor.

22 THE COURT: It will be noted for the record.

23 Counsel, do we know what time these images were -- all you
24 know is these images were on the phone. You have no idea when
25 they came on the phone, when they didn't? Or is this stored

1 images? I don't know what we're talking about here.

2 MR. PENCE: Okay.

3 Q. Would you please describe where --

4 THE COURT: I know he got them off the phone.

5 MR. PENCE: Sure.

6 THE COURT: The question is, did he take them off a
7 database somewhere or did he take them off of a program
8 somewhere, an app somewhere? Where did they come from?

9 MS. ROSSI: Your Honor, objection, hearsay. This
10 witness wasn't the one who extracted --

11 THE COURT: Well, I'm just talking for identification.
12 I have no idea what we're talking about here. I don't know
13 what time -- they may have been photographs from 2001, for all
14 I know.

15 BY MR. PENCE:

16 Q. Agent Ruiz, where were these images found on defendant's
17 phone?

18 THE COURT: Well, again, the objection is hearsay.

19 All you know is, these were given to you. You don't know
20 where they came from or what they -- what time they were placed
21 on the phone or anything else; is that correct? You know they
22 were on the phone.

23 THE WITNESS: They're on the phone. They are images
24 that I identified relevant to the investigation as being images
25 I recognized that were posted to the NEPILOVERS chat room.

1 THE COURT: So you're saying you recognized these
2 images from what you saw before?

3 THE WITNESS: That is why I bookmarked them. Yes.

4 THE COURT: Okay. Overruled.

5 BY MR. PENCE:

6 Q. Do you recognize Exhibits 20 and 22?

7 A. Twenty-two... yes, I do.

8 Q. Excuse me, Agent Ruiz, I think I may have -- I meant
9 Exhibits 20 and 21. Do you recognize Exhibits 20 and 21?

10 A. Yes, I do.

11 Q. How do you recognize Exhibits 20 and 21?

12 A. I signed these discs.

13 Q. And what are Exhibits 20 and 21?

14 A. They are -- both of them are compact discs. Twenty --
15 twenty -- actually, 21 are two videos that I identified on the
16 HTC Evo Shift memory card, or the memory card within the HTC
17 Shift phone. Exhibit 20 is a clip of one of the videos from
18 those two videos.

19 MR. PENCE: Your Honor, the government moves to admit
20 Exhibits 20 and 21.

21 MS. ROSSI: Your Honor, we would object to the
22 admission. It's cumulative at this point. And this is the
23 video again. The Court already has the images in evidence.
24 It's 403.

25 THE COURT: Is this the 403 exhibit that we saw

1 earlier?

2 MR. PENCE: Your Honor, these are -- they are not.
3 They are visually similar to the images that were already
4 admitted, but they are being offered to show the connection
5 between the phones and the images that you've already seen.

6 THE COURT: Yeah, it seems to me to be --

7 Well, are these images you saw on the same date that we're
8 talking about that you -- images that you saw when you looked
9 at the phone and you said you saw advertising on the phone?
10 Were these images you saw on that date or you saw on a later
11 date?

12 THE WITNESS: These two exhibits here refer to content
13 identified or recovered from the HTC Evo. The other images
14 were from --

15 THE COURT: Talking about the date. We're talking
16 about an allegation that there was advertisement going on for
17 child pornography on a certain date, and the Court's interested
18 in whether or not -- what the photographs were surrounding that
19 date, et cetera, and surrounding that alleged advertising. The
20 question is, were these from some other later date, or were
21 these from that time period?

22 THE WITNESS: I would have to look at the posting on
23 the NEPILOVERS, but it is a video contained on that NEPILOVERS
24 link.

25 THE COURT: It may not be during that date, Counsel.

1 MR. STOUT: Your Honor, may I have a --

2 THE COURT: Yes.

3 *(Government counsel confer privately.)*

4 THE COURT: Counsel, why don't we give you a chance to
5 talk about it, because we are going to take a break at this
6 time, but I am concerned about the fact that -- and we've
7 talked about it before. What you need to prove this case is,
8 obviously, significant to the Court, but bringing in the whole
9 kitchen sink and what happened down the road and say, "Well, we
10 just want to bring this in to show" -- I guess another analogy
11 is, you can have a shooting in the Rose Bowl, and you can bring
12 in one witness who talks about the shooting, or you can bring
13 in 100,000 people, and the last, you know, 90,000 probably is
14 just cumulative. And that's what the Court's problem with it
15 is, is that -- so anyway, think about it, and then we'll come
16 on back in as soon as we take the break.

17 MR. PENCE: Thank you, Your Honor.

18 THE CLERK: All rise.

19 *(Recess held from 10:27 a.m. to 10:44 a.m.)*

20 THE COURT: Okay. Counsel, you may continue.

21 MR. PENCE: Yes, Your Honor.

22 Before I continue examining the witness, I would just like
23 to explain to the Court why it is that we're engaging in the
24 examination, because I understand the Court's concern about
25 cumulative evidence, especially in a child pornography case.

1 MS. ROSSI: Your Honor, I would just object to counsel
2 testifying at this point. I think that's for closing argument.

3 THE COURT: Overruled.

4 MR. PENCE: Your Honor, this evidence, or the
5 testimony that we anticipate eliciting, goes directly to the
6 issue of identity, which the defendant is challenging in this
7 case. Specifically, the testimony that we anticipate will
8 establish that images that were posted on the Kik chat room in
9 August 26 -- or in August through October of 2015 are visually
10 similar to images that were found on the defendant's phone.
11 That evidence corroborates the identity of the person who posts
12 the advertisements in the Kik chat room.

13 In other words, in other words, Your Honor, the same
14 photographs that were found on defendant's phone were posted in
15 the Kik chat room. And if identity is going to be disputed by
16 defendants, this evidence is probative of the person who in
17 fact posted the chats in the Kik chat room.

18 THE COURT: The question is, is how many photographs
19 that were on his phone that are similar are you going to be
20 putting in?

21 MR. PENCE: Yes, Your Honor. We intend to put in one
22 clip from one video file that was found on defendant's phone,
23 as well as three redacted images that the -- three redacted
24 images of child pornography that were found on defendant's
25 iPhone.

1 THE COURT: And that's it, just those four items?

2 MR. PENCE: Those are the items that we plan to put
3 in.

4 THE COURT: Okay.

5 MR. PENCE: Yes.

6 THE COURT: Okay.

7 MS. ROSSI: And Your Honor, I can address it later if
8 the Court wants, but the video, the Court doesn't need the
9 actual video, because the Court has Mr. Harper's admission to
10 that count, Count 2. That would be cumulative, it would be
11 extremely prejudicial, and it's not necessary for the Court to
12 view it.

13 THE COURT: If it's not an issue, if you're not going
14 to contest that issue that they're going towards, then that's
15 fine, but he indicated that you were contesting identity.

16 MS. ROSSI: Your Honor, we think that the other images
17 are sufficient to establish what the government is trying to
18 establish. The three redacted images that the government is
19 seeking --

20 THE COURT: Well, it may be, but I guess what I'm
21 saying is, I'm assuming it's still an issue, identity is still
22 an issue in this case.

23 MS. ROSSI: No, Your Honor, I don't believe so.

24 MR. PENCE: Is the defense stipulating that --

25 Excuse me. Excuse me, Your Honor. Just a moment.

1 THE COURT: Okay.

2 *(Government counsel confer privately.)*

3 THE COURT: And counsel, let me make a suggestion. If
4 you want to take just 30 seconds and the two sides talk
5 together rather than this side talking and this side talking,
6 if there's some agreement, that's fine, let me know, and if
7 there's not, then I'll rule on it.

8 MR. PENCE: I understand, Your Honor, and I appreciate
9 that. I'm getting advice from my elders and betters and --

10 THE COURT: Well, I don't mind that, but I'm thinking
11 maybe the two of you would like to talk.

12 MR. PENCE: Well, the defense is not contesting
13 identity, and so we don't need -- the government does not
14 intend to put in its case in chief the video footage of child
15 pornography that was discussed earlier, but reserves its right
16 to put those clips in evidence in its rebuttal if something
17 happens on defendant --

18 THE COURT: Okay. Fine.

19 BY MR. PENCE:

20 Q. Agent Ruiz, did you receive, from Oladele Salaam, data
21 from the HTC Evo Shift phone?

22 A. Yes, I did.

23 Q. Did you review that data?

24 A. Yes, I did.

25 Q. And did any -- what did you find in that data?

1 MS. ROSSI: Objection, hearsay.

2 THE COURT: Sustained.

3 BY MR. PENCE:

4 Q. Agent Ruiz, would you please turn to Exhibit 18.

5 A. Yes.

6 Q. Do you recognize Exhibit 18?

7 A. I do.

8 Q. What is Exhibit 18?

9 A. Exhibit 18 are printouts of images I have redacted,
10 recovered from the iPhone, the defendant's iPhone.

11 Q. Are they fair and accurate representations of those
12 images -- of images found on the defendant's iPhone?

13 A. Yes, they are.

14 MR. PENCE: Your Honor, the government moves to admit
15 those images, Exhibit 18.

16 THE COURT: Will be received.

17 *(Received in evidence, Government's Exhibit 18.)*

18 BY MR. PENCE:

19 Q. Did you make any observations about those images that you
20 found on defendant's iPhone?

21 A. Yes, I did.

22 Q. What observation did you make?

23 A. These -- specifically these three images were the same
24 images that were posted to the NEPILOVERS chat room as captured
25 by SA McCall. Special Agent McCall. Sorry.

1 Q. Were they absolutely identical to the images that were
2 found on the S -- strike that. Excuse me.

3 I withdraw the question, Your Honor.

4 At the search warrant, at the execution of the search
5 warrant, did you interview the defendant?

6 A. Yes, I did.

7 Q. How long did that interview last?

8 A. Approximately two hours.

9 Q. Where did that interview take place?

10 A. At his residence.

11 Q. Who was present during the interview?

12 A. Myself, Riverside County district attorney investigator
13 Heidi Chebahtah, and the defendant.

14 Q. Did you make a recording of that interview?

15 A. Yes, I did.

16 Q. How was that recording made?

17 A. With a digital voice recorder.

18 Q. Had you used similar digital voice recorders in the past?

19 A. Yes. Numerous times.

20 Q. And was the device used that day in normal operating
21 condition?

22 A. Yes, it was.

23 Q. Was the device capable of accurately reproducing sounds?

24 A. Yes, it was.

25 Q. Do you recognize Exhibits 25A through Z?

1 A. Exhibit 25 is a compact disc that I've signed.

2 Q. What does Exhibit 25 contain?

3 A. This is a disc containing portions of the recorded
4 interview that took place on October 13, 2015.

5 Q. How do you know that to be true?

6 A. I've reviewed the contents of this disc, and I signed it
7 after I reviewed those contents.

8 Q. Do those clips fairly and accurately reflect the
9 defendant's statements during that interview?

10 A. Yes, they do.

11 MR. PENCE: Your Honor, the government moves to admit
12 Exhibits 25A through Z.

13 MS. ROSSI: Your Honor, we just have objections to
14 some of the contents of the clips, including there's
15 approximately, I believe, 50 minutes of Mr. Harper discussing
16 the unrelated pending matter in the Riverside Superior Court,
17 which the government has moved to admit under Federal Rules of
18 Evidence 414 and we've objected to. It's the subject of a
19 motion in limine. It's extremely lengthy, and I don't think
20 the Court needs to hear all of that.

21 MR. PENCE: Your Honor, the defendant made almost two
22 hours' worth of statements and admissions during his interview.
23 The government has selected clips that substantially cut down
24 the length of time that would need to be played in court, and
25 intends to play only a fraction of that entire interview.

1 THE COURT: Well --

2 MR. PENCE: And in addition, Your Honor, I believe
3 that the --

4 THE COURT: You're introducing the entire transcript
5 here.

6 MR. PENCE: Your Honor, I believe Agent Ruiz just
7 identified an exhibit that contains just clips from the
8 interview that occurred.

9 THE COURT: Is that true? It's not the whole
10 interview?

11 THE WITNESS: Correct, this CD's just clips from that
12 interview.

13 THE COURT: And Counsel, have you had a chance to
14 listen to those clips?

15 MS. ROSSI: I have not, but government counsel did
16 provide the portions of the transcript that it intends to
17 introduce, and so our concern is that, added up, about 50
18 minutes of it specifically relates to --

19 THE COURT: You're objecting to parts of it that deal
20 with discussions that dealt with the state court matters; is
21 that correct?

22 MS. ROSSI: Correct. Yes, Your Honor.

23 THE COURT: Okay. And that was the subject of a
24 motion in limine.

25 MS. ROSSI: It was, Your Honor.

1 THE COURT: Okay.

2 MR. PENCE: Your Honor -- sorry.

3 THE COURT: And you're saying that you want to admit
4 that under 414?

5 MR. PENCE: Rule 414, Your Honor, which specifically
6 provides that prior -- or acts of molestation are admissible.

7 THE COURT: Read the first sentence of 414 if you have
8 it there.

9 MR. PENCE: Yes, Your Honor, I've read it.

10 THE COURT: Can you read it out loud?

11 MR. PENCE: Certainly, Your Honor.

12 "In a criminal case in which a defendant is
13 accused of child molestation, the Court may admit
14 evidence that the defendant committed any other
15 act of child molestation."

16 THE COURT: Okay. I'm going to sustain the objection
17 as to that portion. I'm not too sure this qualifies under that
18 section, the meaning of that section as child molest- -- as he
19 being charged in this case with child molestation.

20 MS. PALMER: Your Honor, may I --

21 THE COURT: I know the argument on it, Counsel. The
22 Court's going to sustain the objection as to conversations
23 concerning the other child molestations.

24 MR. PENCE: Your Honor, we'll proceed and -- cognizant
25 of the Court's ruling.

1 THE COURT: Yeah, the rest of it will be admitted.

2 MR. PENCE: Okay.

3 THE COURT: And I don't know if you -- are you going
4 to be playing that, or are you going to have him testify to
5 that, or what are you going to do?

6 MR. PENCE: To the recorded conversation?

7 THE COURT: Yeah.

8 MR. PENCE: We are going to play the recording and
9 provide -- yes, Your Honor.

10 Your Honor, I'm asking my colleague to play a clip which
11 is Exhibit 25B, which is found in the -- among the admitted
12 clips.

13 THE COURT: Okay.

14 MR. PENCE: And that clip is from 6 minutes and 50
15 seconds to 12 minutes and 1 second --

16 THE COURT: Okay.

17 MR. PENCE: -- in the defendant's recorded interview.

18 Oh, and Your Honor, if you would like to follow along, the
19 matching transcript is shown in 25B of the government's exhibit
20 binder. 32B.

21 *(Audio played.)*

22 MR. PENCE: Your Honor, the government now would play
23 Exhibit 25C, which is found in the recording at minutes 12:20,
24 12 minutes and 20 seconds, through 13 minutes.

25 THE COURT: Okay.

1 MR. PENCE: And which is in Your Honor's exhibit
2 binder at 32C.

3 THE COURT: Got it.

4 *(Audio played.)*

5 BY MR. PENCE:

6 Q. Agent Ruiz, do you recognize the voices that you hear in
7 Exhibits 25B and 25C that were just played?

8 A. Yes, I do.

9 Q. Whose voices are those?

10 A. It's myself and the defendant, Angelo Harper, Jr.

11 MR. PENCE: The government will now play clip 25E,
12 which is from 18 minutes and 20 seconds in the recorded
13 interview through 21 minutes and 2 seconds in the recorded
14 interview.

15 THE COURT: Okay.

16 *(Audio played.)*

17 BY MR. PENCE:

18 Q. Agent Ruiz, did you recognize the voices in the clip that
19 you just heard?

20 A. Yes, I did.

21 Q. Whose voices were in that clip?

22 A. Myself, investigator Heidi Chebahtah, and the defendant,
23 Angelo Harper, Jr.

24 MR. PENCE: The government's now going to play clip
25 25E, which is a clip from the same interview, between minutes

1 21 and 34 seconds to 22 minutes and 13 seconds.

2 (Audio played.)

3 BY MR. PENCE:

4 Q. Agent Ruiz, would you please look at Exhibit 22.

5 A. Yes.

6 Q. You recognize Exhibit 22?

7 A. I do.

8 Q. How do you recognize Exhibit 22?

9 A. These are copies of the printouts I showed the defendant
10 during our interview on October 13, 2015.

11 MR. PENCE: Your Honor, the government moves to admit
12 Exhibit 22.

13 THE COURT: Be received.

14 (Received in evidence, Government's Exhibit 22.)

15 BY MR. PENCE:

16 Q. What, if anything, did the defendant tell you about
17 Exhibit 22 when you showed him on the day -- when you showed it
18 to him on the day you interviewed him?

19 A. The -- that he recognized the documents, the first being
20 this screen capture here of the user profile Bobby Green and
21 the profile for the group NEPILOVERS on Kik.

22 Q. Did you discuss anything else about Exhibit 22 with
23 defendant?

24 A. The subsequent photograph which I showed him was a
25 redacted version of a phone -- I'm sorry, was a version, a

1 redacted version of what SA McCall downloaded from the
2 NEPILOVERS chat room. I showed him this photograph, and he
3 identified it. He recognized it as one he had posted to the
4 group.

5 Q. Did you and the defendant have any further discussion
6 about the redacted photograph that's in Exhibit 22?

7 A. Yes, we did.

8 Q. What additional discussion did you have about that
9 photograph?

10 A. The defendant explained -- when I showed him the image
11 here, he had explained that other members of the group had been
12 misled by the photo.

13 Q. Did he explain to you how it was that he believed that
14 they had been misled?

15 A. The image -- the image appears on Kik as though it had
16 been taken live on the defendant's device that he was using to
17 communicate on Kik.

18 Q. Stepping away from the photo for a second, did the
19 defendant explain to you how he used his electronic devices to
20 post on Kik?

21 A. Yes, he did.

22 Q. With reference to Exhibits 15 and 16, could you
23 demonstrate for us how he explained he posted devices on Kik?

24 A. Posted images or --

25 Q. Posted images, excuse me.

1 A. Exhibit 15 is the defendant's iPhone that was recovered
2 from his person. The defendant explained to me that he would
3 recover or -- or obtain images of child pornography using the
4 iPhone image, whether it be TOR or his application, Kik. He
5 would present that image on his iPhone, and then using what is
6 Exhibit 16, the HTC Evo that is logged into the Kik
7 application, would take a photograph of the iPhone screen so
8 that it is transmitted to the Kik chat room.

9 Q. You mentioned TOR. What is TOR?

10 A. TOR is short for The Onion Router. It is a browsing -- a
11 browser that he had explained to me he uses to obtain child
12 pornography.

13 Q. Did you discuss with defendant other sources from which he
14 obtained child pornography to post online?

15 A. Yes, I did.

16 Q. What other sources did he identify to you?

17 A. In addition to TOR and in addition to Kik, he had
18 identified a long time ago having used Google Images, having
19 received child pornography images on platforms like Yahoo
20 Messenger, as well as a service called -- an electronic service
21 called pCloud, which is an electronic service that provides a
22 user the ability to store files online and also make those
23 files available to other users through hyperlinks or password
24 access. And Zip. Another one, Zip, was another application
25 that he had used to retrieve child pornography files that would

1 be -- that he told me would be found on his iPhone.

2 Q. Have you reviewed screen shots of the images that
3 defendant posted on the Kik user group, chat room, NEPILOVERS?

4 A. I have reviewed the screen captures SA McCall obtained on
5 NEPILOVERS, yes.

6 Q. Did you observe any reference or mention of the pCloud
7 service on those screen captures?

8 A. Yes, I did.

9 Q. What reference or mention did you on see on those screen
10 captures?

11 A. In one of the postings made by the Bobby Green account to
12 the NEPILOVERS chat roon is a hyperlink for a video file which
13 portions of were found on the HTC Evo memory card. But the
14 posting itself contained the hyperlink referencing pCloud and
15 the ability to obtain the file using that hyperlink.

16 Q. What is a hyperlink?

17 A. Hyperlink provides a user the ability to touch like you
18 would on a cursor on a computer screen. You would click it.
19 And in the case of a phone or a mobile device, you would use
20 your finger, and it would make available the content depicted
21 on the screen. It would link you to the source of that
22 information.

23 MR. PENCE: The government is now going to play clip
24 25-O.

25 THE COURT: 25 --

1 MR. PENCE: O. Which is from 1 hour and 1 minute and
2 46 seconds to 1 hour and 11 minutes and 33 seconds in the
3 recorded interview of defendant on October 13, 2015.

4 THE COURT: Okay.

5 *(Audio played.)*

6 BY MR. PENCE:

7 Q. Agent Ruiz, do you recognize the voices that you heard in
8 the clips that were just played?

9 A. Yes, I do.

10 Q. Whose voices were those?

11 A. Mine and the defendant, Angelo Harper, Jr.

12 MR. PENCE: The government will now play clip 25Q,
13 which is a clip from 1 hour, 20 minutes and 43 seconds to 1
14 hour, 20 minutes and 58 seconds.

15 *(Audio played.)*

16 BY MR. PENCE:

17 Q. Whose voices were in that clip, Agent Ruiz?

18 A. Myself and again the defendant, Angelo Harper, Jr.

19 MR. PENCE: And the government will now play clip 25R,
20 which is from 1 hour, 22 minutes and -- clip 25R, which is
21 between 1 hour, 22 minutes and 10 seconds, and 1 hour, 22
22 minutes and 30 seconds.

23 *(Audio played.)*

24 BY MR. PENCE:

25 Q. Agent Ruiz, I'd like to turn your attention to the HTC

1 Shift phone. Did you review data extracted from the HTC Shift
2 phone?

3 A. Yes, I did.

4 Q. Did you make any observations about the data that you
5 extracted from that phone?

6 A. Yes, I did.

7 Q. What observations did you make?

8 A. The phone, the memory card within the phone in which the
9 data was extracted, there were two videos. There were portions
10 of a video that were the same video downloaded by SA McCall
11 from the NEPILOVERS chat room that was posted by the defendant.

12 Q. How do you know that they were portions of the same video
13 that had been extracted from Agent McCall?

14 A. I reviewed Agent McCall's screen captures. I've also
15 reviewed the video downloaded by Agent McCall, the full
16 six-minute video, and compared those to what was found on the
17 HTC Evo memory card.

18 Q. Were those videos, did they depict the same thing?

19 A. They're -- yes. They are visually similar. They contain
20 a segment of the video that was downloaded by Agent McCall of
21 the whole video.

22 Q. Would you please describe the segment that you viewed.

23 A. The -- the segment that I viewed on the HTC memory card?

24 Q. That's correct.

25 A. They depict a young boy, under the age of three years old,

1 being sexually assaulted by a male adult. During the video
2 there are some advertisements or banners acknowledging the
3 boy's age. I believe it -- boy ram --

4 MS. ROSSI: Objection, hearsay.

5 THE COURT: Overruled.

6 THE WITNESS: Two years old --

7 THE COURT: This is what you saw; is that correct?

8 THE WITNESS: Yes, this is in the video itself. The
9 video is segmented into sort of portions where there's the
10 visual depiction of a minor being sexually assaulted, and then
11 it will stop and display a banner page, I think -- I think
12 something to the effect of "the boy eats cum," and then it will
13 play another portion in which the boy's sexually assaulted
14 where a male adult is forcing his penis into the boy's mouth.

15 BY MR. PENCE:

16 Q. Okay. Let's be clear. The video, the portion of the
17 video that you just described, that was six minutes in length?

18 A. Yes.

19 Q. Where was that video found?

20 A. That is the video that was downloaded by Agent McCall from
21 the NEPILOVERS room as posted by the Bobby Green account.

22 Q. And how do you know that?

23 A. I have reviewed it and I've watched it.

24 Q. Okay. And you watched other videos found on the
25 defendant's HTC Evo Shift memory card?

1 A. Correct.

2 Q. And how long were those videos?

3 A. Those portions were very short, like a minute each, I
4 believe.

5 Q. And you compared those portions to what you saw in Agent
6 McCall's -- you compared those portions to what you saw that
7 Agent McCall had downloaded?

8 A. Yes. I -- as I was going through the content on the HTC,
9 I found those videos and recalled them from being what was
10 downloaded from -- by McCall.

11 MR. PENCE: Just one moment, Your Honor.

12 Your Honor, the government will now play Exhibit 25V.

13 THE COURT: D as in David?

14 MR. PENCE: V as in Victor, Your Honor.

15 THE COURT: V as in Victor, okay.

16 MR. PENCE: Which runs from 1 hour, 39 minutes and 26
17 seconds of the full recorded transcript, or from the full
18 recording, to 1 hour and 39 minutes and 36 seconds of that
19 recording.

20 THE COURT: Okay.

21 *(Audio played.)*

22 MR. PENCE: The government will now play clip 25Y from
23 the full recording of defendant's recorded interview, and that
24 clip is from 1 hour, 49 minutes and 37 seconds to 1 hour, 52
25 minutes and 1 second.

1 THE COURT: Okay.

2 (Audio played.)

3 BY MR. PENCE:

4 Q. When you interviewed the defendant on October 13th, did
5 you suspect that he had produced child pornography?

6 A. Yes. Yes, we did.

7 Q. Why did you suspect that he had produced child
8 pornography?

9 A. The Kik application identifies the source of the file
10 that's being uploaded to the service provider, and in some of
11 the pictures that the Bobby Green account posted to the
12 NEPILOVERS chat room contained a tag on the photo that said
13 "camera."

14 Unlike an image that somebody uploads to Kik from, say,
15 their gallery or a pre-existing photo that's on their device,
16 if an individual or a Kik user wants to use one of those images
17 and post it to the gallery -- I'm sorry, post it to the Kik
18 chat room, it will have a gallery tag on the image that is
19 transmitted to the group.

20 When this case first initiated, the images that were of
21 concern to myself and Agent McCall were the ones that
22 specifically had the photo icon -- I'm sorry, camera icon on
23 the image in the room. We believe that he had had access to a
24 child and was taking photos of the molestation.

25 Q. And during the interview, did you ask the defendant about

1 these concerns that you had that he had produced child
2 pornography?

3 A. Yes, I did.

4 Q. How did you understand him to -- what did -- what was his
5 response?

6 A. Well, I believe I'd hinted earlier, or not hinted, but
7 stated earlier that he had discussed or told me that other
8 members of the group were misleded by the photos as well,
9 because they do have a camera tag on the image, and that they
10 weren't, in fact, children that were in the house that were
11 being sexually assaulted; they were pictures of existing images
12 he had recovered from the Internet displayed on his iPhone and
13 then took a picture using another device, in this case
14 Exhibit 16, in transmitting those to the Kik chat room.

15 Q. Did you try to confirm the story that defendant told you
16 about how he had posted the images that you thought might have
17 been produced child pornography?

18 A. Yes, I did.

19 Q. What did you do to confirm -- what did you do to try to
20 confirm the defendant's story?

21 A. I looked back at the images that were uploaded to Kik, the
22 screen capture specifically that SA McCall or Agent McCall
23 caught or obtained, and in those images, some of the pictures
24 that were -- or images that were uploaded to Kik, you can see a
25 border. The image is sort of askew, and you see what would not

1 be depicted if an individual was just taking a picture using a
2 camera, and there would be no frame. The image actually was
3 cut on the side. I looked at it further, and it appears to be
4 the edge of an iPhone that is displayed on the image that was
5 posted to the Kik NEPILOVERS room.

6 MR. PENCE: Your Honor, the government has no further
7 questions.

8 THE COURT: Okay. Counsel, on cross -- and let me
9 help you out. We're going to have to break in about five or
10 ten minutes. Would you rather just come back at 1:30 and start
11 your cross then?

12 MS. ROSSI: Your Honor, I don't have any questions.

13 THE COURT: That's no fair, Counsel.

14 Okay, you may step down.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: Then let me go over to the prosecution.

17 Would you care to call your next witness now,
18 understanding you've got about five or ten minutes, or would
19 you rather start it at 1:30?

20 MR. STOUT: May we have a moment, Your Honor?

21 THE COURT: Sure.

22 *(Government counsel confer privately.)*

23 MS. PALMER: Your Honor, we prefer to take the lunch
24 break if we can.

25 THE COURT: Okay. We'll break now, come back at 1:30.

1 Probably have to break about 2:30, quarter of 3:00, so
2 it's only about an hour or hour and a few minutes we have this
3 afternoon, and then we should have all day tomorrow on it,
4 okay?

5 MS. PALMER: Thank you, Your Honor.

6 MR. STOUT: Thank you.

7 Your Honor, if I could, in the event that -- the last
8 witness is the one that is subject to the objection, so in the
9 event that that witness does not -- is not called today, would
10 the Court proceed to closing argument this afternoon, or would
11 the Court -- if there were no more witnesses in the
12 government's case in chief, and obviously depending on what the
13 defense does on their case in chief --

14 THE COURT: Counsel, I mentioned before the advantage
15 of -- and I know maybe I'm preaching to the choir, the
16 advantage of two sides talking together, because many times you
17 can streamline it for both sides and make it easier for both
18 sides. You can get much more done if you talk together. If
19 the two sides came together on this and said we really would
20 like to wait till tomorrow morning, I normally will do anything
21 that both sides agree on. Otherwise, I'll make the call.

22 MR. PENCE: Thank you, Your Honor.

23 MS. ROSSI: Thank you, Your Honor.

24 THE COURT: So I guess what I'm saying is, talk to
25 each other.

1 THE CLERK: All rise.

2 Court is in recess.

3 *(Lunch recess held from 11:37 a.m. to 1:54 p.m.)*

4 THE COURT: Okay. Counsel, you want to call your next
5 witness, please.

6 MR. PENCE: Your Honor, the government has a few
7 housekeeping matters to address with the Court.

8 THE COURT: Okay.

9 MR. PENCE: To start, Your Honor, the government would
10 move in the transcript of defendant's guilty plea, which is
11 Exhibit 31.

12 THE COURT: Okay.

13 MR. PENCE: The government's moving that that exhibit
14 be admitted into evidence.

15 THE COURT: It has. What exhibit number?

16 MR. PENCE: 31.

17 THE COURT: Oh, 31? Okay.

18 MR. PENCE: Yes.

19 THE COURT: Okay, it will be received.

20 MR. PENCE: In addition, Your Honor, the parties have
21 reached a stipulation. The parties -- which I'd like to read
22 into the record.

23 THE COURT: Okay.

24 MR. PENCE: "The parties stipulate that the images in
25 Government's Exhibit 12 and at page 1 of Government's Exhibit

1 18 depict actual minors."

2 THE COURT: So stipulated, Counsel?

3 MS. ROSSI: So stipulated, Your Honor.

4 MR. PENCE: In addition, Your Honor, we would like to
5 make it clear on the record that the defendant himself
6 stipulates.

7 THE COURT: Okay. Well, she stipulated, and that's
8 all that we need at this time. Okay.

9 MR. PENCE: Yes, Your Honor.

10 THE COURT: Okay.

11 MR. PENCE: Your Honor, the government rests.

12 THE COURT: Okay.

13 Defense?

14 MS. ROSSI: Your Honor, the defense rests.

15 THE COURT: Okay. Counsel, you wish to be heard now?
16 I did give you that option of tomorrow. I thought it was going
17 to go longer.

18 MS. ROSSI: Your Honor, we'd request to come back
19 tomorrow.

20 MR. PENCE: That works for the government as well,
21 Your Honor.

22 THE COURT: Sounds good to me.

23 9:00 o'clock tomorrow morning?

24 MR. PENCE: We'll be there.

25 MS. ROSSI: That works for the defense.

1 THE COURT: Okay. We'll see you back then.

2 MR. PENCE: Thank you, Your Honor.

3 MS. ROSSI: Thank you, Your Honor.

4 THE CLERK: All rise.

5 Court is adjourned.

6

7 *(Proceedings adjourned at 1:56 p.m.)*

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1 CERTIFICATE

2
3 I hereby certify that pursuant to Section 753,
4 Title 28, United States Code, the foregoing is a true and
5 correct transcript of the stenographically reported proceedings
6 held in the above-entitled matter and that the transcript page
7 format is in conformance with the regulations of the
8 Judicial Conference of the United States.

9
10 Date: January 24, 2017
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12
13

14 /S/ SANDRA MACNEIL

15 Sandra MacNeil, CSR No. 9013
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